

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

2013 SEP 18 P 2:31

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

IN RE: ~~Cochlear~~ Americas Corporation

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CIVIL DIVISION

Docket No. 559-9-13 Wncv

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell ("the Attorney General") and Cochlear Americas Corporation ("Respondent") hereby agree to this Assurance of Discontinuance pursuant to 9 V.S.A. § 2459.

BACKGROUND

1. The Prescribed Products Disclosure Law, 18 V.S.A. § 4632, requires prescribed product manufacturers to file periodic reports with the Attorney General's Office detailing certain information about the allowable expenditures and permitted gifts the manufacturer gives to Vermont health care providers and other recipients covered under the law.
2. Respondent, Cochlear Americas Corporation, is a prescribed product manufacturer incorporated under the laws of Delaware, with its principal place of business located at 13059 East Peakview Avenue, Centennial, CO 80111.
3. Cochlear Americas Corporation gave allowable expenditures and/or permitted gifts to Vermont health care providers and/or other recipients covered under the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, during fiscal year 2010 (July 1, 2009 through June 30, 2010).
4. Cochlear Americas Corporation failed to file annual reports with the Attorney General's Office for fiscal year 2010 (July 1, 2009 through June 30, 2010).
5. The above conduct constitutes a violation of the Prescribed Products Disclosure Law, 18 V.S.A. § 4632.

INJUNCTIVE RELIEF

6. Cochlear Americas Corporation shall comply with the Prescribed Product Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 4632.
7. By July 1, 2013, Cochlear Americas Corporation shall make payment to the "State of Vermont" in the amount of \$500.00, and send to: Kate Whelley McCabe, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, VT 05609, in full payment of the registration fees owed under 18 V.S.A. § 4632 for fiscal year 2010 (July 1, 2009 through June 30, 2010).

OTHER TERMS

8. Cochlear Americas Corporation agrees that this Assurance of Discontinuance shall be binding on Cochlear Americas Corporation, and their successors and assigns.
9. The Attorney General hereby releases and discharges any and all claims arising under the Prescribed Product Disclosure Law, 18 V.S.A. § 4632, that it may have against Cochlear Americas Corporation for the conduct described in the Background section for fiscal year 2010 (July 1, 2009 through June 30, 2010.) **The Attorney General does NOT release any claims arising under the Prescribed Product Gift Ban, 18 V.S.A. § 4631a.**
10. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this Assurance and the parties hereto for the purpose of enabling the Attorney General to apply to this Court at any time for orders and directions as may be necessary or appropriate to enforce compliance with or to punish violations of this Assurance of Discontinuance.

STIPULATED PENALTIES

11. If the Superior Court of the State of Vermont, Washington Unit enters an order finding Respondent to be in violation of this Assurance of Discontinuance by having violated the Prescribed Product Disclosure Law, 18 V.S.A. § 4632, then the parties agree that penalties to be assessed by the Court for each act in violation of this Assurance of Discontinuance shall be \$10,000. For purposes of this Section, the term "each act" shall mean each violation of the Prescribed Products Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 4632 that occurs after the date this Assurance of Discontinuance is executed.

NOTICE

12. Respondent may be located at:

Liza McKelvey
Vice President, General Counsel
Cochlear Americas
13059 E. Peakview Avenue
Centennial, CO 80111

13. Respondent shall notify the Attorney General of any change of business name or address within 20 business days.

SIGNATURE

In lieu of instituting an action or proceeding against Cochlear Americas Corporation, the Office of the Attorney General, pursuant to 9 V.S.A. § 2459, accepts this Assurance of Discontinuance. By signing below, Respondent voluntarily agrees with and submits to the terms of this Assurance of Discontinuance.

DATED at Centennial CO, this 27 day of June, 2013.

A handwritten signature in black ink, appearing to be "L. J. Kelly", written over a horizontal line.

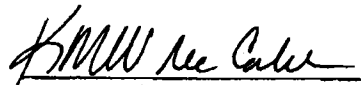
ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 18th day of September, 2013.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

A handwritten signature in black ink, appearing to be "K. Whelley McCabe", written over a horizontal line.

Kate Whelley McCabe
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, Vermont 05609
kwhelleymccabe@atg.state.vt.us
802.828.5621